

Docket No. 22562-2

CERTIFICATE OF MAILING

I hereby certify that this paper is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on May 23, 2005.


Diana M. Celia

PATENT

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

Applicants: Thomas E. Jackson : Paper No.:
Serial No.: 10/619,775 : Group Art Unit: 3652
Filed: July 15, 2003 : Examiner: James W. Keenan
For: **Dolly Device for Loading Containers**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Transmitted herewith is a Response to Restriction Requirement in the above-identified application.

- ☐ additional fee is required.
☒ also attached: Return Receipt Postcard

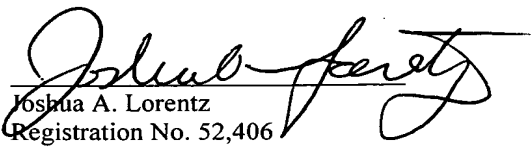
The fee has been calculated as shown below:

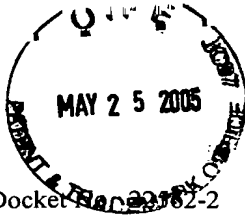
	NO. OF CLAIMS	HIGHEST PREVIOUS PAID FOR	EXTRA CLAIMS	RATE	FEE
Total Claims	20	20	0	x \$18 =	\$-0-
Independent Claims	3	3	0	x \$84 =	\$-0-
TOTAL FEE DUE					\$-0-

- ☐ A check in the amount of \$ is enclosed.
☐ Please charge my Deposit Account No. 04-1133 in the amount of \$.
☐ Please charge the amount of \$_____ to our Visa credit card. Form PTO-2038 is enclosed.
☒ The Commissioner is hereby authorized to charge payment of any additional fees associated with this communication or credit any overpayment, to Deposit Account No. 04-1133, including any filing fees under 37 CFR 1.16 for presentation of extra claims and any patent application processing fees under 37 CFR 1.17.

Respectfully submitted,

By:


Joshua A. Lorentz
Registration No. 52,406
Attorney for Applicant
DINSMORE & SHOHL LLP
255 East Fifth Street
1900 Chemed Center
Cincinnati, Ohio 45202
(513) 977-8564



Docket No. 2003-2

PATENT

CERTIFICATE OF MAILING

I hereby certify that this paper is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on May 23, 2005.


Diana M. Celia

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

Applicants: Thomas E. Jackson : Paper No.:
Serial No.: 10/619,775 : Group Art Unit: 3652
Filed: July 15, 2003 : Examiner: James W. Keenan
For: **Dolly Device for Loading Containers**

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In the Official Action dated April 22, 2005, the Examiner required restriction under 35 USC 121 to one of the following groups specified in the Office Action:

- I. Claims 1-12 and 16-20
- II. Claims 13-15

Applicant respectfully traverses the requirement on the basis that it would not be unduly burdensome for the Examiner to simultaneously examine all of the claims in this application, especially because the groupings are related such that the same art classifications (e.g., class 414) would need to be searched for one grouping as for the others. See MPEP § 808.02. In particular, the groupings are generally related in dealing with dolly devices. In fact, the process of claims 13-15 currently requires "providing a dolly device." Moreover, Applicant would be faced with an undue burden and expense if forced to file multiple divisional patent applications on the related groupings set forth in the Office Action.

Furthermore, the statutory mandate of 35 U.S.C. §121 requiring a finding of two or more independent and distinct inventions has not been shown in this case. In particular, 35 U.S.C. §121 states that "[i]f two or more independent and distinct inventions are claimed in

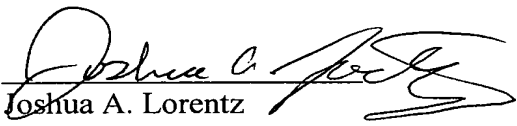
one application, the Director may require the application to be restricted to one of the inventions.” Consequently, the standard for restriction requirements is that two or more independent and distinct inventions must be present. In imposing the present requirement, the Office Action focuses only on distinctness. It is Applicant’s position that absent a showing of independence, imposition of the present restriction requirement fails to comply with the requirements of 35 U.S.C. §121. Moreover, even when two or more independent and distinct inventions are found, imposition of the requirement is discretionary with the Director.

Accordingly, reconsideration of the restriction requirement is requested.

For purposes of complying with 37 C.F.R. § 1.143, Applicant hereby provisionally elects with traverse the group labeled in the Office Action as Group I, claims 1-12 and 16-20.

It is believed that the above represents a complete response to the restriction requirement. Accordingly, it is believed that the present application is in condition for allowance, and reconsideration and an early allowance are requested.

Respectfully submitted,

By: 
Joshua A. Lorentz
Registration No. 52,406
Attorney for Applicant
DINSMORE & SHOHL LLP
255 East Fifth Street
1900 Chemed Center
Cincinnati, Ohio 45202
(513) 977-8564